

E-filed: 5/7/2008

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

RAMBUS INC.,  
  
Plaintiff,  
  
v.

HYNIX SEMICONDUCTOR INC., HYNIX  
SEMICONDUCTOR AMERICA INC.,  
HYNIX SEMICONDUCTOR  
MANUFACTURING AMERICA INC.,  
  
SAMSUNG ELECTRONICS CO., LTD.,  
SAMSUNG ELECTRONICS AMERICA,  
INC., SAMSUNG SEMICONDUCTOR, INC.,  
SAMSUNG AUSTIN SEMICONDUCTOR,  
L.P.,  
  
NANYA TECHNOLOGY CORPORATION,  
NANYA TECHNOLOGY CORPORATION  
U.S.A.,  
  
Defendants.

No. C-05-00334 RMW

SUPERSEDING ORDER REGARDING  
PROCEDURAL SCHEDULE AND  
RELATED MATTERS FOR SEPTEMBER 22,  
2008 TRIAL

**[Re Docket No. 1681]**

RAMBUS INC.,  
  
Plaintiff,  
  
v.

SAMSUNG ELECTRONICS CO., LTD.,  
SAMSUNG ELECTRONICS AMERICA,  
INC., SAMSUNG SEMICONDUCTOR, INC.,  
SAMSUNG AUSTIN SEMICONDUCTOR,  
L.P.,  
  
Defendants.

No. C-05-02298 RMW

**[Re Docket No. 758]**

SUPERSEDING ORDER REGARDING PROCEDURAL SCHEDULE AND RELATED MATTERS FOR SEPTEMBER 22, 2008  
TRIAL  
C-05-00334 RMW; C-05-02298 RMW  
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The court issued a scheduling order on April 11, 2008. Rambus and Samsung responded with some minor changes and concerns. The court has considered the parties' proposals. Instead of issuing an order amending the scheduling order, the court has made various changes and republishes the entire scheduling order to minimize later confusion in the event that a dispute over this order arises.

**1. Scheduling.** Pursuant to the stipulation filed with the court on February 1, 2008, the court orders as follows:

a. The September 22 Trial. In case nos. C-05-00334 and 05-02298, Samsung and Rambus will have a bench trial commencing on September 22, 2008 (the "September 22 Trial"). The September 22 Trial will include, to the extent they have not been resolved by motion prior to trial, Samsung's claims in counts I through VII and X (except prosecution laches) and affirmative defenses Fifth through Eighth as set forth in Samsung's January 4, 2008 Answer and Counterclaims and Rambus's affirmative defenses associated with those claims and defenses, as well as Samsung's discovery rule and equitable tolling defenses to limitations affirmative defenses for those claims.

b. Pretrial schedule. The following pretrial schedule shall apply for the September 22 Trial:

June 30, 2008:	Expert witness disclosures and reports (party with burden of proof)
July 18, 2008:	Discovery cut-off (excluding expert discovery)
July 28, 2008:	Last day to file summary judgment motions
August 4, 2008:	Expert witness rebuttal disclosures and reports
August 18, 2008:	Expert discovery cut-off
August 19, 2008:	Lead counsel meet and confer regarding pretrial conference issues identified in Court's Standing Order Re: Pretrial Preparation
September 11, 2008:	Pretrial conference.
September 22, 2008:	Trial begins.

c. Summary judgment briefing on Samsung counts IV-VII. Pursuant to the Court's November 2 Order, the converted motion for partial summary judgment regarding Rambus's claim that Counts IV-VII of Samsung's Counterclaim are barred by the statute of limitations shall be briefed and heard on the following schedule:

May 21, 2008: Rambus's motion for partial summary judgment is due.

June 13, 2008: Samsung's opposition is due.

June 23, 2008: Rambus's reply is due.

July 1, 2008: Hearing, at 2:00.<sup>1</sup>

2. **Overlapping claims in San Francisco Superior Court.** Rambus seeks to have Samsung request in the action pending between the parties in San Francisco Superior Court (*Rambus Inc. v. Micron Technology, Inc., et al.*, SF Superior Court Case No. 04-431105) that (1) Samsung's cross-complaint (including all causes of action asserted therein) against Rambus be stayed pending the September 22 Trial, and (2) upon commencement of the September 22 Trial, Samsung dismiss its cross-complaint in Case No. 04-431105 in its entirety. The court declines to grant Rambus's request, but solely on the basis that the court believes that management of the state case should be left to the discretion of the presiding state court judge. To be clear, nothing in this order should be considered as suggesting that the state court judge should not stay the state court proceedings pending the outcome of the September 22 Trial.

3. **Memorialization of the case management conference of December 14, 2007.** The court granted Samsung's request to severed from the consolidated conduct trial on a variety of conditions. *See* Tr. 6:6-7:2, 9:16-19 (Dec. 14, 2007). For ease of reference and understanding, those conditions were:

a. Samsung agreed to be bound by the result on the prosecution laches aspect of the consolidated trial;

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<sup>1</sup> If both Ms. Luedtke and Mr. Powers are available at 2:00 p.m. on July 7 or 8, the court will move the hearing to that date if Ms. Luedtke so requests and informs the court by May 14.

- b. Samsung agreed that it will not claim collateral estoppel with respect to any factual finding from the consolidated trial,
- c. The remaining issues would be tried within six months of the result of the consolidated conduct trial, and
- d. Samsung agreed to the admissibility of any relevant evidence from the consolidated conduct trial.

**4. Modification of this scheduling order.** The dates set forth in this scheduling order may only be changed by written stipulation of the parties and order of the court.

**5. Incorporation of applicable portions of April 24, 2007 Joint Case Management Order.**

The applicable portions of the April 24, 2007 Joint Case Management Order (Docket No. 174 in C-05-00334 and Docket No. 112 in C-05-02298) remain in full force and effect, including §§ 2, 3, 5a, 5b(1)-(4), 5c(1)-(8), 5e(1)-(3), 5f(1), 5g, 5h, 6a, 6b and 7.

**6. Samsung's additional experts.** In addition to the Manufacturers' shared experts, Samsung seeks to offer an expert on its damages and an expert on certain technical issues. To the extent necessary under section 6b of the April 24, 2007 Joint Case Management Order, the court grants Samsung leave to proffer these two additional experts.

DATED: 5/7/2008



RONALD M. WHYTE  
United States District Judge

**Notice of this document has been electronically sent to:**

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SUPERSEDING ORDER REGARDING PROCEDURAL SCHEDULE AND RELATED MATTERS FOR SEPTEMBER 22, 2008  
 TRIAL  
 C-05-00334 RMW; C-05-02298 RMW  
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**Dated:** 5/7/2008

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**Chambers of Judge Whyte**